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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,664	07/28/2003	Rodrigo Lopez	60880.00002	6461

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EXAMINER

KRAMER, DEAN J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/629,664

Applicant(s)

LOPEZ ET AL.

Examiner

Dean J. Kramer

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/24/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 2, 4, 9, 10, 12, 16, and 18-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no clear antecedent basis for "the tool head" (claims 2 and 12), "the straight portion" (claim 4), "the one or more keyhole openings" (claims 9 and 20), "the shaft portion" (claims 16, 18, and 19), or "the tool head portion" (claim 18).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9, 11, 12, 15-23, and 25, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Zeigler.

Zeigler shows a weeding tool comprising a handle (2) having a threaded extension connection (3), a shaft portion (4,4',4''), a tool head (5) having a plurality of weed removing structures (12) separated by beveled tines (7,7'), and a beveled side (9).

4. Claims 1, 2, 4, 5, 13, 15, 16, 18, 19, 21, and 25, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Mendenhall.

Mendenhall shows a weed removing tool comprising a shaft portion (8,11), a first tool head (13), and a second tool head (9).

5. Claims 1, 2, 4-6, 8, 15, 16, 18, 19, 21, and 25, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Stamp.

Stamp shows a weeding tool comprising a handle (12), a shaft (14,18), a tool head (16) having tines (28) with blunt tips (see col. 4, lines 7-9), and a handle extension (40) releasably attached through an expandable clip (50).

6. Claims 1, 5, 6, 8, 14, 15, 19, 21, and 25, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Lisowski.

Lisowski shows a weed removing tool comprising a handle (13), a shaft portion (12), a tool head (14), a handle extension (58), expansion clips (64,66), and a cushioned hand grip (16).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 10 and 24, as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Zeigler in view of Meehan.

Meehan shows a weeding tool comprising keyhole-shaped weed removing structures (36,46,44,48) having rectilinear-shaped narrow throats leading to a larger generally circular opening for trapping weed stalks therein.

It would have been obvious to one of ordinary skill in the art at the time the invention was to for the sidewalls (10,10') of Zeigler's tines (7,7') generally parallel to each other similar to that shown in the Meehan patent in order to more efficiently direct groups of weeds to the circular collecting opening (12) without inadvertently severing their stalks.

Specification

10. The disclosure is objected to because of the following informalities: On page 2, line 18, it appears that the word "toll" should be changed to --tool--.

Appropriate correction is required.

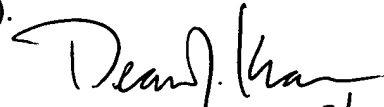
Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hatch, Reithel, and Williamson all show weeding tools for removing weeds with their roots intact.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dean J. Kramer 2/27/05
Primary Examiner
Art Unit 3652

djk
2/27/05